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United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General

Report of Inspection

Review of the Department's Terrorist Watch List Nomination (Visas Viper) Process

Report Number OIG-SIA-08-02, March 2008

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**United States Department of State
and the Broadcasting Board of Governors**

Office of Inspector General

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. This report is based upon a review which was done as part of a collaborative effort headed by the Office of the Director of National Intelligence. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability, and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the Department's terrorist watch list nominating process. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations herein have been developed on the basis of the best knowledge available to the OIG, and have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

Marilyn Wanner

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Security and Intelligence Advisor

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EXECUTIVE SUMMARY

This review found the Department of State’s (Department) program for watch-listing suspected terrorists, the Visas Viper program, on the whole to be functioning well. Every overseas diplomatic post is required to have a Visas Viper committee that meets and reports to the Department and the National Counterterrorism Center (NCTC) at least monthly regarding known or suspected terrorists.¹ In response to an Office of Inspector General (OIG) survey questionnaire sent to all diplomatic and consular posts,² 96 percent of the respondents³ (222 posts) reported having a Visas Viper committee and 94 percent of the respondents (217 posts) reported meeting and reporting to the Department monthly.

Although on the whole the Visas Viper program is functioning well, this review identified several areas where the Department can make improvements in the program:

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- Guidance is needed for all overseas posts regarding the retention of terrorist watch list nomination information, and

¹9 FAM 40.37 N4.1, *Visas Viper Committees*

² The questionnaire, which was sent by ALDAC cable (07 State 53682), can be found in Appendix A.

³OIG received 214 questionnaire responses representing 232 (94 percent) of the Department’s 247 overseas posts. The number of responding posts was more than the number of responses received because some embassies responded for the entire mission, combining the responses of the embassy and its consulates into one response.

⁴The No Fly list contains the names of individuals who are not permitted to board a commercial aircraft for travel to or within the United States. Persons in this category have been determined to represent a threat to either commercial aviation or to the homeland. The Selectee list contains the names of persons who are members of a foreign or domestic terrorist organization and are associated with terrorist activity. Selectees may be allowed to board aircraft for travel in the United States subject to additional security screening.

- The Department's quarterly report to Congress regarding terrorist lookout committee meetings and reporting, as required by 8 U.S.C. 1733, should be revised to accurately reflect overseas posts' compliance or non-compliance.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this review was to evaluate all aspects of the Department's terrorist watch list nominating process. This review was part of a coordinated effort, overseen by the OIG of the Office of the Director of National Intelligence (ODNI), among 10 executive Departments and agencies.⁵ Within each of these executive departments and agencies, simultaneous reviews were conducted of the terrorist watch list nomination process. Within the Department this review included, but was not limited to, ascertaining that:

1. Processes and standards for nominating individuals to the consolidated watch list are consistent, articulated in policy or other guidance, and are understood by nominators;
2. Quality control processes are in place to help ensure nominations are accurate, understandable, updated with new information, and include all individuals who should be placed on the watch list based upon information available to the agencies;
3. Responsibility for watch list nominations is clear, effective, and understood;
4. Nominators receive adequate training, guidance, and necessary information on the nomination process;
5. Agencies maintain records of their nominations to the NCTC, including the source of the nomination and what information was provided; and
6. Organizations with terrorism, counterterrorism, and domestic counterterrorism information in their possession, custody, or control appropriately participate in the nomination process.

⁵Office of the Director of National Intelligence, Central Intelligence Agency, Department of Justice, Defense Intelligence Agency, National Security Agency, Department of Homeland Security, Department of State, National Geospatial-Intelligence Agency, Department of the Treasury, and Department of Energy.

This review was limited to the terrorist watch list nomination process. Other issues pertaining to the terrorist watch list, such as its quality, integrity, and the redress process for removing names from the list, were not examined. Similarly, this review included the Consular Lookout and Support System (CLASS), but only as an element in the terrorist watch list process. This review did not include a detailed look at CLASS.

This review was conducted through: 1) interviews with personnel in the Department, NCTC, and the Terrorist Screening Center (TSC); 2) a survey questionnaire sent to all diplomatic and consular posts; and 3) reviews of Department and federal policies, legislation, and memoranda of agreement and understanding. The survey questionnaire, which was sent as an ALDAC telegram, can be found in Appendix A.

This review was conducted in Washington from March 19 to September 27, 2007, by OIG Security and Intelligence Advisor, Marilyn Wanner, and Deputy Security and Intelligence Advisor, Thomas C. Allsbury.

BACKGROUND

The Department's program for watch-listing suspected terrorists began in 1987 with the creation of a database of suspected terrorists, which was given the name TIPOFF. TIPOFF was created by the Department's Bureau of Intelligence and Research (INR) as a method of maintaining lookout or watch list records of suspected terrorists. To operate as a watch list, declassified TIPOFF records were exported to CLASS, which is the Department's tool for vetting foreign individuals applying for a visa to the United States. Consular officers adjudicating visa applications overseas are required to check each applicant's name against those in CLASS before issuing a visa.

Although TIPOFF resulted in a substantial transfer of terrorist-related information into CLASS, an investigation following the 1993 World Trade Center bombing revealed the lack of a systematic procedure for routinely and consistently entering the names of suspected terrorists into CLASS. To correct this deficiency, the Visas Viper program was created in 1993. Under the Visas Viper program, all elements of every overseas U.S. mission having access to terrorist-related information are required to work together to identify and develop information on known or suspected terrorists and report this information telegraphically directly to the Department and the TIPOFF staff.

Following the terrorist attacks of September 11, 2001, the President, Congress, and others recognized the need to consolidate the multiple databases of suspected terrorists that were in use at the time. As a result, the Terrorist Threat Integration Center (TTIC), now NCTC, was created. In September 2003, TTIC assumed the responsibility for establishing and maintaining a single repository for international terrorist information. In November 2003, the Department transferred TIPOFF to TTIC as the foundation for this repository. The TIPOFF database served as TTIC's (later NCTC's) primary terrorist identities database until May 2005 when it was upgraded and renamed the Terrorist Identities Datamart Environment (TIDE).

In September 2003, pursuant to Homeland Security Presidential Directive (HSPD)-6, TSC was created to consolidate the U.S. government's approach to terrorist screening and provide for the appropriate and lawful use of terrorist information in screening processes. TSC's database of known or suspected terrorists is the Terrorist Screening Database (TSDB). TSDB is fed from two primary sources—it receives international terrorist information from NCTC and domestic terrorist information from the FBI. TSDB in turn feeds multiple databases of end-users of terrorist watch list information including CLASS.

POLICY GUIDANCE

Visas Viper Policy Guidance

The background, purpose, and operating procedures of the Visas Viper program are set forth in 9 FAM 40.37 N1 *“Visas Viper” Terrorist Reporting Program*. (b) (2)
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Ninety one percent (212 posts) of the respondents to OIG’s survey questionnaire stated that they found the policy and process guidance for the Visas Viper program to be adequate. (b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)
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Recommendation 1: (b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)(b) (2)
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TRAINING AND GUIDANCE

In response to OIG's survey question, "Were any of the Visas Viper committee members trained or briefed on the program before arriving at post?" 72 percent of the respondents (166 posts) to the questionnaire stated "yes."

The principal training provider on the Visas Viper program is the Foreign Service Institute (FSI). Most Visas Viper training occurs in conjunction with consular officer training. FSI's "Basic Consular Course" (PC-530), the "Advanced Consular Course" (PC-532), and the "Advanced Consular Name Checking Techniques" (PC-126) course, include sessions on the Visas Viper program. According to the Director of the Consular Officer Training Program at FSI, the "Basic Consular Course" is required for every newly assigned consular officer.

In addition to the instruction given to consular officers, the Visas Viper program is described in the "Orientation to Overseas Consular and Duty Officer Responsibilities" (PC-105) course, which is given once a year to the Bureau of Diplomatic Security (DS) Special Agents, and in the "Orientation for First-Tour Employees" (PN-115) course, which is given to non-Department employees who have been assigned to an overseas mission.

In addition to formal FSI training, CA's Deputy Assistant Secretary for Visa Services regularly speaks to the participants of FSI's Deputy Chief of Mission Seminar. The Visas Viper program is one of his topics.

Supplementing the Department's formal Visas Viper training as noted above, policy and procedural guidance for the Visas Viper program can be found in 9 FAM 40.37 N1 *Visas Viper Terrorist Reporting Program*, on CA's website, and in periodic cables sent to all diplomatic and consular posts.

RECORD KEEPING

Seventy-one percent of the respondents (164 posts) to OIG's survey questionnaire reported that the post maintains records of its Visas Viper nominations, however, the length of time that these records are being maintained showed considerable variation. Responses ranged from "nine months" to "indefinitely." Two respondents to OIG's survey questionnaire specifically asked for clearer guidance on file retention requirements. As one of them commented, on occasion other posts have contacted it regarding its watch list nominees, which has caused its Visas Viper committee to ponder the extent of the information it should maintain on its

nominations. Neither 9 FAM 40.37, the CA Visas Viper website, nor past ALDAC guidance cables contain any information on post retention of watch-listing nominee information.

Recommendation 3: The Department should establish and promulgate guidance on post retention of watch list nominee information to all overseas posts. (Action: CA in coordination with NCTC)

VISAS VIPER COMMITTEE MEETING AND REPORTING REQUIREMENTS

In addition to the guidelines for the Visas Viper program contained in 9 FAM 40.37 N1, there is also a statutory requirement—8 U.S.C. 1733, which was signed into law in May 2002 as part of the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173). It requires the Secretary of State to establish a terrorist lookout committee within each U.S. foreign mission. It requires these committees to meet at least monthly, and to submit monthly reports to the Secretary describing the committee's activities for the month, whether or not information on suspected terrorists was developed during the month. Furthermore, it requires the Secretary to send quarterly reports to appropriate committees of Congress on the status of these terrorist lookout committees. 8 U.S.C. 1733 is included in Appendix C.

Since August 2002, in accordance with the requirements of 8 U.S.C. 1733, overseas posts have been submitting monthly telegraphic reports of their Visas Viper program activities. Instructions for filing these reports can be found in 9 FAM 40.37 N6 Visas Viper Monthly Reporting Requirement and in paragraphs 16 through 19 of "Visas Viper Program Revised Procedures for 2005." According to these instructions, Visas Viper monthly reports are due no later than 10 days after the last day of the month.

Visas Viper monthly reporting telegrams are collected by NCTC together with telegrams of other watch list-related information. NCTC staff maintains lists of the receipt of posts' monthly reports and notifies CA's Office of Visa Services, Coordination Division, CA/VO/L/C, of those posts that have not met the ten-day reporting requirement. CA/VO/L/C contacts those posts as necessary to obtain the delinquent reports. From the monthly reporting information collected by NCTC,

CA/VO/L/C staff prepare quarterly reports for the Under Secretary for Political Affairs to appropriate Congressional committees that summarizes posts' compliance with the monthly meeting and reporting requirements of 8 U.S.C. 1733.

The quarterly report forwarded to Congress for the period January 1 through March 31, 2007 states that there was 100 percent compliance¹⁰ with the monthly reporting requirement. However, a review of worldwide Visas Viper monthly reporting for that quarter revealed that there were 10 Visas Viper monthly reports for the month of January that were not reported until March, some as late as March 30, 2007. This is not consistent with the language of that quarter's report to Congress, which states: "Since July 2002, overseas missions whose operations have not been suspended have been required to convene Visas Viper Committee meetings monthly, and to report monthly to the Department," and "For the reporting period, compliance by our posts with the monthly meeting and reporting requirement was 100 percent." The wording of the Department's quarterly report to Congress for this period is misleading, as it implies that every overseas post reported every month of the quarter, which does not appear to be the case.

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Recommendation 4: The Department should revise future quarterly reporting to Congress, as required by 8 U.S.C. 1733, to accurately reflect overseas posts' compliance to the terrorist lookout committee monthly meeting and reporting requirements of 8 U.S.C. 1733. (Action: CA in coordination with NCTC)

¹⁰With the exception of one post where telecommunications were suspended.

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It is not clear whether, as a result of the previous OIG inspection of CLASS, data entry standards were actually established for non-Department contributors to CLASS. A review of CLASS and the quality of its identifying data is beyond the scope of this review, but should be addressed in a future OIG review.

¹¹Recommendation #7

INFORMAL RECOMMENDATION

9 FAM 40.37 N4.1 and “Visas Viper Revised Program Procedures for 2005” state that the Visas Viper committee should be chaired by the DCM or principal officer. Yet, 28 percent of the respondents to OIG’s questionnaire stated that the post’s committee is chaired by a person of lower rank, such as a consular officer, consul general, or political officer.

9 FAM 40.37 N6 and “Visas Viper Revised Program Procedures for 2005” state that Visas Viper monthly reports are due no later than 10 days after the last day of the month. This review found in the Visas Viper reporting for the period March 1 - 31, 2007, 48 reports of monthly meetings that were submitted more than 10 days after the last day of the reporting month.

Recommendation 1: The Department should reiterate to all overseas posts the requirement for the deputy chief of mission or principal officer to chair the post’s Visas Viper committee and the 10-day reporting requirement for Visas Viper monthly meetings. (Action: CA)

ABBREVIATIONS

ALDAC	All diplomatic and consular posts [cable]
CA	Bureau of Consular Affairs
CLASS	Consular Lookout and Support System
DCM	Deputy chief of mission
DHS	Department of Homeland Security
DS	Bureau of Diplomatic Security
FAM	Foreign Affairs Manual
FBI	Federal Bureau of Investigation
FSI	Foreign Service Institute
HSPD	Homeland Security Presidential Directive
INR	The Bureau of Intelligence and Research
NCTC	National Counterterrorism Center
OIG	Office of Inspector General
SAO	Security Advisory Opinion
SIO	Office of Security and Intelligence Oversight
TIDE	Terrorist Identities Datamart Environment
TIG	Terrorist Identities Group
TIPOFF	[The name given to a Department database of terrorist suspects]
TSA	Transportation Security Administration
TSC	Terrorist Screening Center
TSDB	Terrorist Screening Database
TTIC	Terrorist Threat Integration Center
U.S.C.	Unites States Code

APPENDIX A

OIG SURVEY QUESTIONNAIRE (07 STATE 53682)

UNCLASSIFIED
CABLE

April 23, 2007

To: ALL DIPLOMATIC AND CONSULAR POSTS – ROUTINE

Origin: OIG

From: SECSTATE WASHDC (STATE 53682 – ROUTINE)

TAGS: ASEC, CMGT, CVIS, KVPR, PINR, PTER

Captions: None

Subject: OIG REVIEW OF DEPARTMENT TERRORIST WATCH-LISTING
PROCESS

Ref: None

1. On March 19, 2007, the Intelligence Community Inspector General (ICIG) Forum agreed to a coordinated review among the ICIG member agencies of the processes for nominating individuals to the consolidated terrorist watch list. As part of this review, several Offices of Inspectors General (OIGs), including the Department of State, agreed to conduct their own reviews of the watch-listing process within their respective agencies.

2. OIG's review of the Department's watch-listing process, i.e., Visas Viper, began on March 19, 2007, and is expected to be completed on or about May 4, 2007. In addition to reviewing Department and federal policies and interviewing officials of the Department and National Counterterrorism Center (NCTC), OIG requests your

comments concerning Visas Viper. Please e-mail your responses to the following questions, using view," which can be found in the global address list on both systems.

- (a) Does the post have a Visas Viper committee? If so, who chairs it?
- (b) Does the post's Visas Viper committee meet and report to the Department monthly, as required by 8 U.S.C. 1733?
- (c) What has been the post's source for policy guidance for the Visas Viper program?
- (d) Has this guidance been adequate?
- (e) Were any of the Visas Viper committee members trained or briefed on the Visas Viper program before arriving at post?
- (f) Does everyone at post who potentially has access to terrorist-related information understand his or her responsibilities regarding Visas Viper and actively participate in the program?
- (g) Does the post have a quality control process for the Visas Viper program, i.e., to ensure that nominations are accurate and understandable, all potential sources of information available to the post are being used, and nominee information is updated with new information as it becomes available?
- (h) Does the Visas Viper committee maintain records of its nominations? If so, for how long?
- (i) How many names did the post submit via the Visas Viper program in CY 2006?
- (j) Does the post receive feedback on its nominations?
- (k) Has the post's Visas Viper committee monitored CLASS for the appearance of individuals nominated by the post through the Visas Viper process? If so, how long has it taken from the time a person is nominated until that person's name appears in CLASS?
- (l) Does the post have any issues or concerns with the Visas Viper program? Are there ways it could be made better?

RICE

APPENDIX B

8 USC 1733

Sec. 1733. Terrorist lookout committees

(a) Establishment

The Secretary of State shall require a terrorist lookout committee to be maintained within each United States mission to a foreign country.

(b) Purpose

The purpose of each committee established under subsection (a) of this section shall be -

(1) to utilize the cooperative resources of all elements of the United States mission in the country in which the consular post is located to identify known or potential terrorists and to develop information on those individuals;

(2) to ensure that such information is routinely and consistently brought to the attention of appropriate United States officials for use in administering the immigration laws of the United States; and

(3) to ensure that the names of known and suspected terrorists are entered into the appropriate lookout databases.

(c) Composition; chair

The Secretary shall establish rules governing the composition of such committees.

(d) Meetings

Each committee established under subsection (a) of this section shall meet at least monthly to share information pertaining to the committee's purpose as described in subsection (b)(2) of this section.

(e) Periodic reports to the Secretary of State

Each committee established under subsection (a) of this section shall submit monthly reports to the Secretary of State describing the committee's activities, whether or not information on known or suspected terrorists was developed during the month.

(f) Reports to Congress

The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a) of this section.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to implement this section.

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